

  
**भारत का राजपत्र**  
**The Gazette of India**

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन  
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

**LOK SABHA**

The following Bills were introduced in Lok Sabha on 5th September, 1988:—

BILL No. 105 OF 1988

*A Bill further to amend the Negotiable Instruments Act, 1881, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks), Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Industrial Development Bank of India Act, 1964, the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970, the Regional Rural Banks Act, 1976, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, the Export-Import Bank of India Act, 1981, the National Bank for Agriculture and Rural Development Act, 1981 and the Industrial Reconstruction Bank of India Act, 1984.*

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

**CHAPTER I**

**PRELIMINARY**

1. (1) This Act may be called the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Short  
title  
and  
commence-

## CHAPTER II

## AMENDMENTS TO THE NEGOTIABLE INSTRUMENTS ACT, 1881

26 of 1881.

Amend-  
ment of  
section  
80.

2. In section 80 of the Negotiable Instruments Act, 1881 (hereafter in this Chapter referred to as the Negotiable Instruments Act), for the words "six per centum", the words "eighteen per centum" shall be substituted.

Amend-  
ment of  
section  
117.

3. In section 117 of the Negotiable Instruments Act, in clause (c), for the words "six per centum", the words "eighteen per centum" shall be substituted.

Insertion  
of new  
Chapter  
XVII.

4. In the Negotiable Instruments Act, after Chapter XVI, the following Chapter shall be inserted, namely:—

## 'CHAPTER XVII

## OF PENALTIES IN CASE OF DISHONOUR OF CERTAIN CHEQUES FOR INSUFFICIENCY OF FUNDS IN THE ACCOUNTS

Dis-  
honour  
of cheque  
for insuffi-  
ciency, etc,  
of funds  
in the  
account.

138. Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice, in writing, to the drawer of the cheque, within fifteen days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice

*Explanation.*—For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability.

139. It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability.

Presump-  
tion in  
favour of  
holder.

140. It shall not be a defence in a prosecution for an offence under section 138 that the drawer had no reason to believe when he issued the cheque that the cheque may be dishonoured on presentment for the reasons stated in that section.

Defence  
which  
may not  
be allow-  
ed in any  
prosecu-  
tion un-  
der sec-  
tion 138.

141. (1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences  
by com-  
panies.

Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

142. Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Cogni-  
zance of  
offences.

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138;

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.

## CHAPTER III

## AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

Amend-  
ment of  
section 17.

5 In section 17 of the Reserve Bank of India Act, 1934 (hereafter in this Chapter referred to as the Reserve Bank Act), in clause (4B), the proviso shall be omitted.

2 of 1934.

Amend-  
ment of  
section 58.

6. In section 58 of the Reserve Bank Act,—

(a) in sub-section (1), after the words “the Central Government,” the words “by notification in the Official Gazette,” shall be inserted;

(b) in such-section (2), in clause (p), for the words “the scheduled banks”, the words and brackets “the banks (including post office savings banks)” shall be substituted.

## CHAPTER IV

## AMENDMENTS TO THE BANKING REGULATION ACT, 1949

Amend-  
ment of  
section 11.

7. In section 11 of the Banking Regulation Act, 1949 (hereafter in this Chapter referred to as the Banking Regulation Act), in sub-section (2), in clause (b), in sub-clause (ii), the word “calendar” shall be omitted.

10 of 1949.

Amend-  
ment of  
section 29.

8. In section 29 of the Banking Regulation Act,—

(a) in sub-section (1),—

(i) in the opening paragraph,—

(A) after the words “each calendar year”, the words “or at the expiration of a period of twelve months ending with such date as the Central Government may, by notification in the Official Gazette, specify in this behalf,” shall be inserted;

(B) for the words “that year”, the words “that year or period, as the case may be,” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the preparation of, or for other matters relating to, the balance-sheet or profit and loss account in respect of the year or period, as the case may be.”;

(b) after sub-section (3A), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—In sub-section (3A), “year” means the year or, as the case may be, the period referred to in sub-section (1),’

## 9. In section 30 of the Banking Regulation Act,—

Amend-  
ment of  
section 30.

(a) in sub-section (1B), for the portion beginning with the words "it may direct" and ending with the words "specified in the order", the following shall be substituted, namely:—

"it may at any time by order direct that a special audit of the banking company's accounts, for any such transaction or class of transactions or for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order either appoint a person duly qualified under any law for the time being in force to be an auditor of companies or direct the auditor of the banking company himself to conduct such special audit";

(b) in sub-section (1C), for the words "the audit of the transaction or class of transactions", the words "the special audit" shall be substituted;

(c) in sub-section (2), the words ", and auditors, if any, appointed by the law establishing, constituting or forming the banking company concerned" shall be inserted at the end.

## 10. In section 51 of the Banking Regulation Act, for the figures "31", the words, brackets, figures and letters "sub-sections (1B), (1C) and (2) of section 30, 31" shall be substituted.

Amend-  
ment of  
section 51.

## 11. In the Third Schedule to the Banking Regulation Act, in Form B, in the portion appearing after the heading "FORM OF PROFIT AND LOSS ACCOUNT", the word "December" shall be omitted.

Amend-  
ment of  
Third  
Schedule.

## CHAPTER V

## AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

23 of 1955.

## 12. In section 20 of the State Bank of India Act, 1955 (hereafter in this Chapter referred to as the State Bank Act),—

Amend-  
ment of  
section 20.

(a) in sub-section (3),—

(i) the words, brackets and figure "and in sub-section (5)" shall be omitted;

(ii) for the words, figures, brackets and letter "section 19 or nominated under clause (d) of that sub-section" and "four years", the words "that section" and "three years" shall, respectively, be substituted;

(iii) the words "or nominated" and "or renomination" shall be omitted;

(iv) the following proviso shall be inserted at the end, namely:—

"Provided that no such director shall hold office continuously for a period exceeding six years.";

(b) in sub-section (3A),—

(i) for the words "A director", the words, brackets and figure "Subject to the provisions contained in sub-section (4), a director" shall be substituted;

(u) after the word and figures "section 19", the words, brackets and letter "or nominated under clause (d) of that sub-section" shall be inserted;

(ii) for the words "duly appointed" and "for re-appointment", the words "duly appointed or nominated" and "for re-appointment or re-nomination, as the case may be" shall, respectively, be substituted;

(iv) the following proviso shall be inserted at the end, namely:—

"Provided that no such director shall hold office continuously for a period exceeding six years.";

(c) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) A director appointed under clause (ca) or clause (cb) of sub-section (1) of section 19 or nominated under clause (d) or clause (e) or clause (f) of that sub-section shall hold office during the pleasure of the authority appointing or nominating him, as the case may be.";

(d) sub-section (5) shall be omitted.

Amend-  
ment of  
section  
21A.

13. In section 21A of the State Bank Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions contained in this section and in sub-section (2) of section 21, a member of a Local Board—

(a) nominated under clause (c) of sub-section (1) of section 21 shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and thereafter until his successor has been duly nominated;

(b) elected under clause (d) of sub-section (1) of section 21 shall hold office for three years and thereafter until his successor has been duly elected,

and shall be eligible for re-nomination or re-election, as the case may be:

Provided that no such director shall hold office continuously for a period exceeding six years.";

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) A member of a Local Board nominated under clause (c) of sub-section (1) of section 21 shall hold office during the pleasure of the Central Government."

Amend-  
ment of  
section  
39.

14. In section 39 of the State Bank Act,—

(a) for the words "in each year", the words "or such other date in each year as the Central Government may, by notification in the Official Gazette, specify" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

15. In section 40 of the State Bank Act, in sub-section (1), after the words, figures and letters “the 31st day of December”, the words and figures “or the date specified under section 39, as the case may be” shall be inserted.

Amend-  
ment of  
section 40.

16. In section 42 of the State Bank Act, in sub-section (2), after the words, figures and letters “the previous 31st day of December”, the words and figures “or the date specified under section 39, as the case may be” shall be inserted.

Amend-  
ment of  
section 42.

17. In section 50 of the State Bank Act, in sub-section (1), after the words “the Central Government”, the words “, by notification in the Official Gazette,” shall be inserted.

Amend-  
ment of  
section 50.

## CHAPTER VI

### AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) Act, 1959

38 of  
1959.

18. In section 25 of the State Bank of India (Subsidiary Banks) Act, 1959 (hereafter in this Chapter referred to as the Subsidiary Banks Act), in sub-section (1),—

Amend-  
ment of  
section 25.

(a) in clause (c), the following proviso shall be inserted at the end, namely:—

“Provided that any nomination of a director made by the State Bank under this clause shall, except in so far as it relates to an officer of that bank, be in consultation with the Central Government.”;

(b) in clause (e), the words “in consultation with the State Bank” shall be omitted.

19. In section 26 of the Subsidiary Banks Act,—

Amend-  
ment of  
section 26.

(a) in sub-section (1),—

(i) for the portion beginning with the words “, if nominated” and ending with the words “that sub-section,”, the following shall be substituted, namely:—

“nominated under clause (b) or clause (c) or clause (e) of sub-section (1) of section 25 or appointed under clause (ca) or clause (cb) of that sub-section”;

(ii) for the word “nominating”, the words “nominating or appointing” shall be substituted;

(b) for sub-sections (2) and (2A), the following sub-sections shall be substituted, namely:—

“(2) Subject to the provisions contained in section 25, a director elected under clause (d) of sub-section (1) of that section shall hold office for three years and thereafter until his successor is duly elected, and shall be eligible for re-election:

Provided that no such director shall hold office continuously for a period exceeding six years.

(2A) Subject to the provisions contained in section 25 and in sub-section (1), a director nominated under clause (c) and not being an officer of the State Bank or a director appointed under clause (ca) or clause (cb) or a director, not being an officer of the Central Government, nominated under clause (e) of sub-section (1) of section 25, shall hold office for such term not exceeding three years, as the Central Government may specify and thereafter until his successor shall have been duly nominated or appointed, and shall be eligible for re-nomination or re-appointment, as the case may be:

Provided that no such director shall hold office continuously for a period exceeding six years.”;

(c) sub-section (3) shall be omitted.

Amend-  
ment of  
section  
39.

20. In section 39 of the Subsidiary Banks Act,—

(a) for the words “in each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

Amend-  
ment of  
section 43.

21. In section 43 of the Subsidiary Banks Act, in sub-section (1), in clause (a), after the words, figures and letters “the 31st day of December”, the words and figures “or the date notified under section 39, as the case may be,” shall be inserted.

Amend-  
ment of  
section 44.

22. In section 44 of the Subsidiary Banks Act, in sub-section (2) and (3), after the words, figures and letters “the previous 31st day of December”, the words and figures “or the date notified under section 39, as the case may be” shall be inserted.

Amend-  
ment of  
section 63.

23. In section 63 of the Subsidiary Banks Act, in sub-section (1), after the words “the Reserve Bank,”, the words “by notification in the Official Gazette,” shall be inserted.

## CHAPTER VII

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE  
CORPORATION ACT, 1961

47 of 1961.

24. In section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (hereafter in this Chapter referred to as the Deposit Insurance Corporation Act), in sub-section (2),—

Amend-  
ment of  
section 6.

(a) in clause (i), after the word, brackets and letter "clause (c)", the words, brackets and letters "or clause (d) or clause (e)" shall be inserted;

(b) for clause (ii), the following clause shall be substituted, namely:—

"(ii) subject to the provisions contained in clause (i), a director nominated under clause (d) or clause (e) of sub-section (1), shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years."

25. In section 28 of the Deposit Insurance Corporation Act, in sub-section (2),—

Amend-  
ment of  
section 28.

(a) for the words "each year", the words "or such other date in each year as the Central Government may, by notification in the Official Gazette, specify" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the balancing and closing of, or for other matters relating to, the books or accounts in respect of the concerned years."

26. In section 50 of the Deposit Insurance Corporation Act, in sub-section (1), after the words "the Reserve Bank," the words "by notification in the Official Gazette," shall be inserted.

Amend-  
ment of  
section 50.

## CHAPTER VIII

## AMENDMENTS TO THE INDUSTRIAL DEVELOPMENT BANK OF INDIA ACT, 1964

18 of 1964.

27. In section 6 of the Industrial Development Bank of India Act, 1964 (hereafter in this Chapter referred to as the Development Bank Act), for sub-section (4A), the following sub-section shall be substituted, namely:—

Amend-  
ment of  
section 6.

"(4A) Subject to the provisions of sub-section (4),—

(a) every director nominated under sub-clause (ii) or sub-clause (iv) of clause (c) of sub-section (1) and not being an official of Government or not being an official or whole-time

director of the Reserve Bank or a financial institution or the State Bank or a nationalised bank or a State Financial Corporation; and

(b) every director nominated under sub-clause (iii) or sub-clause (v) of clause (c) of sub-section (1),

shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years."

Amend-  
ment of  
section 18.

28. In section 18 of the Development Bank Act, in sub-section (2), the following proviso shall be inserted at the end, namely:—

"Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years."

Amend-  
ment of  
section 21.

29. In section 21 of the Development Bank Act, in sub-section (2), the following proviso shall be inserted at the end, namely:—

"Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years."

## CHAPTER IX

### AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

Amend-  
ment of  
section 3.

30. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act), in sub-section (2A), in the proviso, for the words "rupees one hundred crores", the words "rupees five hundred crores" shall be substituted.

5 of 1970.

Amend-  
ment of  
section 9.

31. In section 9 of the Bank Nationalisation Act,—

(a) in sub-section (2),—

(i) in clause (a), for the words "rupees one hundred crores", the words "rupees five hundred crores" shall be substituted;

(ii) in clause (c), for the words "corresponding new bank to any other banking institution", the words "corresponding new bank to any other corresponding new bank or banking institution" shall be substituted;

(b) in sub-section (5), the *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

*Explanation II.*—For the purposes of this section, the expression “corresponding new bank” shall include a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.’

40 of 1980.

32. In section 10 of the Bank Nationalisation Act, in sub-section (1),—

Amend-  
ment of  
section 10.

(a) for the words “of each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

## CHAPTER X

### AMENDMENTS TO THE REGIONAL RURAL BANKS ACT, 1976

21 of 1976.

33. In section 19 of the Regional Rural Banks Act, 1976 (hereafter in this Chapter referred to as the Rural Banks Act), in sub-section (1),—

Amend-  
ment of  
section 19.

(i) for the words “of each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

34. In section 30 of the Rural Banks Act, in sub-section (1), after the words “the Central Government,”, the words “by notification in the Official Gazette,” shall be inserted.

Amend-  
ment of  
section  
30.

## CHAPTER XI

### AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

40 of 1980.

35. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [hereafter in this Chapter referred to as the Bank Nationalisation Act], in sub-section (2A), in the proviso, for the

Amend-  
ment of  
section 3

words “rupees one hundred crores”, the words “rupees five hundred crores” shall be substituted.

Amend-  
ment of  
section 9.

36. In section 9 of the Bank Nationalisation Act,—

(a) in sub-section (2),—

(i) in clause (a), for the words “one hundred crores”, the words “five hundred crores” shall be substituted;

(ii) in clause (c), for the words “corresponding new bank to any other banking institution”, the words “corresponding new bank to any other corresponding new bank or banking institution” shall be substituted;

(b) in sub-section (5), the *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

‘*Explanation II*.—For the purposes of this section, the expression “corresponding new bank” shall include a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.’

5 of 1970

Amend-  
ment of  
section 10.

37. In section 10 of the Bank Nationalisation Act, in sub-section (1),—

(a) for the words “each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

Amend-  
ment of  
section 19.

38. In section 19 of the Bank Nationalisation Act, in sub-section (1), after the words “the Central Government,”, the words “by notification in the Official Gazette,” shall be inserted.

## CHAPTER XII

### AMENDMENTS TO THE EXPORT-IMPORT BANK OF INDIA ACT, 1981

Amend-  
ment of  
section 6.

39. In section 6 of the Export-Import Bank of India Act, 1981 (hereafter in this chapter referred to as the Exim Bank Act),—

28 of 1981.

(a) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Subject to the provisions contained in sub-section (7), any director nominated under clause (b) or clause (c) or clause (d) or clause (e) of sub-section (1) and not being an official of Government or not being a whole-time director or official of the Reserve Bank or the Development Bank or the

said Export Credit and Guarantee Corporation Limited or a scheduled bank, shall hold office for such term, not exceeding three years, as the Central Government or, as the case may be, the authority nominating him, may specify in this behalf and thereafter until his successor enters upon office, and shall be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years.”;

(b) in sub-section (7), the word “other” shall be omitted.

40. In section 19 of the Exim Bank Act, in sub-section (2),—

Amend-  
ment of  
section 19.

(a) for the words “each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.”.

41. In section 22 of the Exim Bank Act, in sub-section (2),—

Amend-  
ment of  
section 22.

(a) for the words “each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.”.

42. In section 39 of the Exim Bank Act, in sub-section (1), after the words “the Central Government,”, the words “by notification in the Official Gazette,” shall be inserted.

Amend-  
ment of  
section  
39.

### CHAPTER XIII

#### AMENDMENTS TO THE NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT ACT, 1981

61 of 1981. 43. In section 5 of the National Bank for Agriculture and Rural Development Act, 1981 (hereafter in this Chapter referred to as the National Bank Act), in sub-section (3), the following proviso shall be inserted at the end, namely:—

Amend-  
ment of  
section  
5.

“Provided that during the period of any casual vacancy of the nature referred to in section 11 in the office of the Managing Director, the Chairman may also exercise the powers and discharge the functions of the Managing Director until the person appointed by

the Central Government under section 11 to act as Managing Director enters upon his office.”.

Amend-  
ment of  
section  
6.

44. In section 6 of the National Bank Act, in sub-section (2), the following proviso shall be inserted at the end, namely:—

“Provided that no such consultation shall be necessary in the case of directors appointed under clause (e) of sub-section (1).”.

Amend-  
ment of  
section 7.

45. In section 7 of the National Bank Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Subject to the provisions contained in sub-section (5), a director appointed under clause (b) or clause (c) of sub-section (1) of section 6, shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and thereafter until his successor enters upon his office, and shall be eligible for reappointment:

Provided that no such director shall hold office continuously for a period exceeding six years.”;

(b) in sub-section (3), the words, brackets and figure “or any other director referred to in sub-section (2)” shall be omitted;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The directors appointed under clauses (b) to (f) of sub-section (1) of section 6 shall hold office during the pleasure of the Central Government.”.

Amend-  
ment of  
section 46.

46. In section 46 of the National Bank Act, in sub-section (2),—

(a) for the words “, each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the balancing and closing of, or for other matters relating to, the books or accounts in respect of the concerned years.”.

#### CHAPTER XIV

#### AMENDMENTS TO THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA Act, 1984

Amend-  
ment of  
section 10.

47. In section 10 of the Industrial Reconstruction Bank of India Act, 1984 (hereafter in this Chapter referred to as the Industrial Reconstruction Bank Act), after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Subject to the provisions of sub-section (2), a director nominated under clause (c) or clause (d) of sub-section (1) and

not being an official of Government or not being an official or whole-time director of the Development Bank or a public financial institution or the State Bank or a nationalised bank or a State Financial Corporation, shall hold office for such term, not exceeding three years, as the authority nominating him may specify in this behalf and thereafter until his successor enters upon his office, and shall be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years."

48. In section 29 of the Industrial Reconstruction Bank Act, in sub-section (2),—

Amendment of section 29.

(a) for the words "each year", the words "or such other date in each year as the Central Government may, by notification in the Official Gazette, specify" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years."

49. In section 32 of the Industrial Reconstruction Bank Act, in sub-section (2),—

Amendment of section 32.

(a) for the words "each year", the words "or such other date in each year as the Central Government may, by notification in the Official Gazette, specify" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years."

50. In section 69 of the Industrial Reconstruction Bank Act, in sub-section (1), after the words "the Central Government," the words "by notification in the Official Gazette," shall be inserted.

Amendment of section 69.

## STATEMENT OF OBJECTS AND REASONS

The Banking Laws were last amended through the Banking Laws (Amendment) Act, 1985 (81 of 1985), the various provisions of which were brought into force on different dates in 1985 and 1986. Since then, in the course of administering various laws relating to banks and public financial institutions, a need has arisen for some further amendments to the Negotiable Instruments Act, 1981, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Industrial Development Bank of India Act, 1964, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1976, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, the Export-Import Bank of India Act, 1981, the National Bank for Agriculture and Rural Development Act, 1981 and the Industrial Reconstruction Bank of India Act, 1984, to achieve the following objectives:—

(i) to enable the Government to increase the paid-up capital of the nationalised banks so as to improve the banks' debt: equity ratio and profitability;

(ii) to invest the Reserve Bank of India with powers to have special audits of banks carried out whenever considered necessary in the public interest or in the interests of the banking company or its depositors either by the banks' auditor or any other auditor specially appointed for the purpose;

(iii) to provide uniform tenure to all non-official directors and employee directors on the Boards of the State Bank of India and its subsidiary banks and certain financial institutions and to limit their continuous membership of the Board of Directors of a bank or institution in keeping with the principle enunciated by the Estimates Committee;

(iv) to empower the Central Government to change the accounting year of any bank or financial institution by notification in the Official Gazette which would enable the Central Government to change the present accounting year of banks and financial institutions to coincide with the financial year (April—March) which is envisaged as the previous year for income-tax purposes;

(v) to provide transfer of whole or part of the undertaking of one corresponding new bank to another corresponding new bank;

(vi) to obviate avoidable delays by omitting the requirement of prior consultation with the State Bank of India or the Reserve Bank of India, as the case may be, in the matter of nomination or appointment of officials of the Central Government on the Boards of Directors of Subsidiary Banks of the State Bank of India and

the National Bank for Agriculture and Rural Development as obtaining in other analogous statutes;

(vii) to provide for making of the regulations by the Board of Directors of the banks and financial institutions by notification in the Official Gazette;

(viii) to enable the Reserve Bank of India to make regulations to govern Clearing Houses which have as members, besides scheduled banks, other banks and post office savings banks;

(ix) to amend the Reserve Bank of India Act, 1934 to omit the ceiling on the quantum of loans and advances which could be made by the Reserve Bank of India to the Industrial Finance Corporation of India;

(x) to revise the rate of interest from the present level of six per cent. to eighteen per cent. per annum payable on a negotiable instrument from the due date in case no rate of interest is specified, or payable to an indorser from the date of payment on a negotiable instrument on its dishonour with a view to discouraging the withholding of payment on negotiable instruments on due dates;

(xi) to enhance the acceptability of cheques in settlement of liabilities by making the drawer liable for penalties in case of bouncing of cheques due to insufficiency of funds in the accounts or for the reason that it exceeds the arrangements made by the drawer, with adequate safeguards to prevent harassment of honest drawers.

(xii) to empower the Chairman, National Bank for Agriculture and Rural Development (NABARD) to exercise the powers and discharge the functions also of the Managing Director, NABARD, during the period of any casual vacancy in the office of Managing Director, NABARD, for smooth functioning of NABARD.

2. The Notes on clause explain in detail the various provisions contained in the Bill.

NEW DELHI;

The 23rd August, 1988.

S. B. CHAVAN

*Notes on clauses*

*Clause 2.*—This clause seeks to amend section 80 of the Negotiable Instruments Act, 1981 to revise the rate of interest payable on a negotiable instrument from the date on which the payment was due to the date of actual payment, from the present level of six per centum per annum to eighteen per centum per annum in cases where no rate of interest is specified in the negotiable instrument.

*Clause 3.*—This clause seeks to amend clause (c) of section 117 of the Negotiable Instruments Act, 1981 to revise the rate of interest payable to an indorser from the present level of six per centum per annum to eighteen per centum per annum in the event of dishonour of a negotiable instrument.

*Clause 4.*—This clause inserts a new Chapter XVII in the Negotiable Instruments Act, 1981. The provisions contained in the new Chapter provide that where any cheque drawn by a person for the discharge of any liability is returned by the bank unpaid for the reason of the insufficiency of the amount of money standing to the credit of the account on which the cheque was drawn or for the reason that it exceeds the arrangements made by the drawer of the cheque with the banker for that account, the drawer of such cheque shall be deemed to have committed an offence. In that case, the drawer, without prejudice to the other provisions of the said Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to twice the amount of the cheque, or with both.

The provisions have also been made that to constitute the said offence—

(a) such cheque should have been presented to the bank within a period of six months of the date of its drawal or within the period of its validity, whichever is earlier; and

(b) the payee or holder in due course of such cheque should have made a demand for the payment of the said amount of money by giving a notice, in writing, to the drawer of the cheque within fifteen days of the receipt of information by him from the bank regarding the return of the cheque unpaid; and

(c) the drawer of such cheque should have failed to make the payment of the said amount of money to the payee or the holder in due course of the cheque within fifteen days of the receipt of the said notice.

It has also been provided that it shall be presumed, unless the contrary is proved, that the holder of such cheque received the cheque in the discharge of a liability. Defences which may or may not be allowed in any prosecution for such offence have also been provided to make the provisions effective. Usual provision relating to offences by companies has also been included in the said new Chapter. In order to ensure that

genuine and honest bank customers are not harassed or put to inconvenience, sufficient safeguards have also been provided in the proposed new Chapter. Such safeguards are—

(a) that no court shall take cognizance of such offence except on a complaint, in writing, made by the payee or the holder in due course of the cheque;

(b) that such complaint is made within one month of the date on which the cause of action arises;

(c) that no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any such offence.

*Clause 5.*—This clause seeks to make consequential amendment in the Reserve Bank of India Act, 1934 by omitting the proviso to clause (4B) of section 17 of the said Act so as to omit the ceiling laid down on the quantum of loans which could be advanced to Industrial Finance Corporation of India by Reserve Bank of India.

*Clause 6.*—This clause seeks to amend section 58(1) of the Reserve Bank of India Act, 1934 to provide for making of the regulations by the Central Board of the Reserve Bank of India by notification in the Official Gazette. This clause also seeks to amend clause (p) of sub-section (2) of section 58 of the said Act to enable the Reserve Bank of India to make regulations to govern the operations of clearing houses having as members besides scheduled banks other banks including post office savings bank.

*Clause 7.*—This clause seeks to amend section 11(2) (b) of the Banking Regulation Act, 1949 in consequence of amendment in clause 8.

*Clause 8.*—This clause seeks to amend section 29 of the Banking Regulation Act, 1949 to enable the Central Government to change the accounting year of a banking company by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 9.*—This clause seeks to amend sub-sections (1B), (1C) and (2) of section 30 of the Banking Regulation Act, 1949 to empower the Reserve Bank of India to have special audits of the accounts of a banking company for such transaction or class of transactions or for such period or periods conducted by the auditor of the banking company or by any other auditor specially appointed for the purpose.

*Clause 10.*—This clause seeks to amend section 51 of the Banking Regulation Act, 1949 to make applicable the provisions of section 30 [including sub-section (1), (1A) and (3)] to State Bank of India, Subsidiaries of State Bank of India or any corresponding new bank or a Regional Rural Bank.

*Clause 11.*—This clause seeks to amend the Third Schedule to the Banking Regulation Act, 1949 in consequence of amendments proposed under clause 8.

*Clause 12.*—At present the term of office of nominated and elected directors vary from statute to statute. It is proposed to bring about uniformity in the provisions governing the term of office of nominated/

elected directors in the various statutes governing banks and financial institutions such as to provide that—

(i) a non official director, non workman employee director and a workman employee director nominated/appointed to the Board shall hold office during the pleasure of the nominating/appointing authority and subject to the same for a period not exceeding 3 years as specified at the time of his nomination/appointment and that a director so nominated/appointed may continue in office until his successor is nominated/appointed and shall also be eligible for re-appointment/re-nomination provided that no such director shall hold office continuously for a period exceeding 6 years.

(ii) a non official director elected to the Board shall hold office for a period of 3 years and thereafter until his successor is elected and shall be eligible for re-election provided that no elected director shall hold office continuously for a period exceeding 6 years;

(iii) directors who are officials of Government, Reserve Bank of India, State Bank of India and its subsidiary banks other scheduled banks and public financial institutions other than workmen employee directors and non workmen employee directors shall hold office during the pleasure of the nominating authority.

*Clause 12* of the Bill seeks to amend section 20 of the State Bank of India Act, 1955 to bring in uniformity in the term of office of Directors on the lines indicated above.

*Clause 13.*—This clause seeks to amend section 21A of the State Bank of India Act, 1955 to bring in uniformity in the term of office of members nominated and elected to the Local Boards of State Bank of India on the lines indicated in the note relating to clause 12.

*Clause 14.*—This clause seeks to amend section 39 of the State Bank of India Act, 1955 to enable the Central Government to change the accounting year of the State Bank of India by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 15.*—This clause seeks to make consequential amendment in section 40 of the State Bank of India Act, 1955 in the light of the amendments to section 39 of the State Bank of India Act, as indicated in notes under clause 14.

*Clause 16.*—This clause seeks to make consequential amendment in section 42 of the State Bank of India Act, 1955 in the light of the amendments to section 39 of the State Bank of India Act, 1955 as indicated in notes under clause 14.

*Clause 17.*—This clause seeks to amend section 50 of the State Bank of India Act, 1955 to provide for making of the regulations by the Central Board of the State Bank of India by notification in the Official Gazette.

*Clause 18.*—This clause seeks to amend section 25 of the State Bank of India (Subsidiary Banks) Act, 1959 to provide that nomination of a non official director under section 25 (1) (c) of the said Act shall be made in consultation with the Central Government and also to provide that

for nomination of an official of the Central Government as a director on the Board of Subsidiary Banks of State Bank of India no consultation with State Bank of India is necessary.

*Clause 19.*—This clause seeks to amend section 26 of the State Bank of India (subsidiary Banks) Act, 1959 to bring in uniformity in the term of office of directors as explained in notes under clause 12.

*Clause 20.*—This clause seeks to amend section 39 of the State Bank of India (Subsidiary Banks) Act, 1959 to enable the Central Government to change the accounting year of a Subsidiary Bank of State Bank of India by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 21.*—This clause seeks to make a consequential amendment in section 43 of the State Bank of India (Subsidiary Banks) Act, 1959 in the light of the amendments proposed to section 39 of the said Act as indicated in note relating to clause 20.

*Clause 22.*—This clause seeks to make consequential amendment in section 44 of the State Bank of India (Subsidiary Banks) Act, 1959 in the light of the amendments proposed to section 39 of the said Act as indicated in note relating to clause 20.

*Clause 23.*—This clause seeks to amend section 63 of the State Bank of India (Subsidiary Banks) Act, 1959 to provide for making of the regulations by State Bank of India in respect of the Subsidiary Banks of State Bank of India by notification in the Official Gazette.

*Clause 24.*—This clause seeks to amend section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 to bring in uniformity in the term of office of directors nominated on the Board of Directors of the Corporation on the lines indicated in clause 12.

*Clause 25.*—This clause seeks to amend section 28 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 to enable the Central Government to change the accounting year of the Corporation by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 26.*—This clause seeks to amend section 50 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 to provide for making of the regulations by the Board of the Corporation by notification in the Official Gazette.

*Clause 27.*—This clause seeks to amend section 6 of the Industrial Development Bank of India Act, 1964 to bring in uniformity in the term of office of directors nominated on the Board of Industrial Development Bank of India on the lines indicated in clause 12.

*Clause 28.*—This clause seeks to insert a proviso at the end of section 18 of the Industrial Development Bank of India Act, 1964 with a view to enabling the Central Government to make such provisions as considered necessary or expedient to facilitate the transition from one date to the other appointed date in closing and balancing of the books and accounts of the Development Assistance Fund.

*Clause 29.*—This clause seeks to amend section 21 of the Industrial Development Bank of India Act, 1964 to provide for such provisions as considered necessary or expedient to facilitate the transition from one date to the other appointed date in closing and balancing the books and accounts of the Industrial Development Bank of India.

*Clause 30.*—This clause seeks to amend section 3(2A) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 to increase the limit on the paid-up capital of corresponding new banks governed by the said Act from the present limit of Rs. 100 crores to Rs. 500 crores.

*Clause 31.*—This clause seeks to make a consequential amendment to section 9(2) (a) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 in view of the amendments proposed to section 3(2A) of the said Act as explained in the notes relating to clause 30 and also to amend section 9(2) (c) and the *Explanation* under sub-section (5) of section 9 of the said Act to provide for transfer of the whole or any part of the undertaking of one corresponding new bank to any other corresponding new bank.

*Clause 32.*—This clause seeks to amend section 10 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 to enable the Central Government to change the accounting year of any corresponding new bank governed by the said Act by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 33.*—This clause seeks to amend section 19 of the Regional Rural Banks Act, 1976 to enable the Central Government to change the accounting year of Regional Rural Banks by a notification in the Official Gazette and also to make such provision as considered necessary or expedient to facilitate such transition.

*Clause 34.*—This clause seeks to amend section 30 of the Regional Rural Banks Act, 1976 to provide for making of the regulations by the Board of Directors of Regional Rural Banks by notification in the Official Gazette.

*Clause 35.*—This clause seeks to amend section 3(2A) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 to increase the limit on the paid-up capital of corresponding new banks governed by the said Act from the present limit of Rs. 100 crores to Rs. 500 crores.

*Clause 36.*—This clause seeks to make a consequential amendment to section 9(2) (a) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 in view of the amendments proposed to section 3(2A) of the said Act as explained in the notes relating to clause 35 and also to amend section 9(2) (c) and the *Explanation* under sub-section (5) of section 9 of the said Act to provide for transfer of the whole or any part of the undertaking of one corresponding new bank to any other corresponding new bank.

*Clause 37.*—This clause seeks to amend section 10 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 to

enable the Central Government to change the accounting year of any corresponding new bank governed by the said Act by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 38.*—This clause seeks to amend section 19(1) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 to provide for making of the regulations by the Board of Directors of a corresponding new bank governed by the said Act by notification in the Official Gazette.

*Clause 39.*—This clause seeks to amend section 6 of the Export-Import Bank of India Act, 1981 to bring in uniformity in the term of office of directors nominated on the Board of Export-Import Bank of India on the lines indicated in the notes relating to clause 12.

*Clause 40.*—This clause seeks to amend section 19 of the Export-Import Bank of India Act, 1981 to enable the Central Government to change the date as on which the books and accounts of the Export Development Fund to be closed and balanced each year by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 41.*—This clause seeks to amend section 22 of the Export-Import Bank of India Act, 1981 to enable the Central Government to change the accounting year of the said Bank by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 42.*—This clause seeks to amend section 39 of the Export-Import Bank of India Act, 1981 to provide for making of the regulations by the Board of the said Bank, by notification in the Official Gazette.

*Clause 43.*—This clause seeks to amend section 5 of the National Bank for Agriculture and Rural Development Act, 1981 to provide that during the period of any casual vacancy in the office of the Managing Director, National Bank for Agriculture and Rural Development (NABARD), the Chairman, NABARD may also exercise the powers and discharge the functions of the Managing Director, NABARD so that the administration of the organisation continues smoothly.

*Clause 44.*—This clause seeks to amend sub-section (2) of section 6 of the National Bank for Agriculture and Rural Development Act, 1981 to provide that for appointment of the officials of Central Government as directors on the Board of the said Bank, no consultation with Reserve Bank of India is necessary.

*Clause 45.*—This clause seeks to amend section 7 of the National Bank for Agriculture and Rural Development Act, 1981 to bring in uniformity in the term of office of directors nominated on the Board of the said Bank on the lines indicated in the notes under clause 12.

*Clause 46.*—This clause seeks to amend section 46 of the National Bank for Agricultural and Rural Development Act, 1981 to enable the Central Government to change the accounting year of the National Bank for Agricultural and Rural Development by a notification in the Official

Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 47.*—This clause seeks to amend section 10 of the Industrial Reconstruction Bank of India Act, 1984 to bring in uniformity in the term of office of directors nominated on the Board of the Industrial Reconstruction Bank of India on the lines indicated in the notes relating to clause 12.

*Clause 48.*—This clause seeks to amend section 29 of the Industrial Reconstruction Bank of India Act, 1984 to enable the Central Government to change the date as on which the books and accounts of the Reconstruction Assistance Fund to be closed and balanced each year by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 49.*—This clause seeks to amend section 32 of the Industrial Reconstruction Bank of India Act, 1984 to enable the Central Government to change the accounting year of the Industrial Reconstruction Bank of India by a notification in the Official Gazette and also to make such provisions as considered necessary or expedient to facilitate such transition.

*Clause 50.*—This clause seeks to amend section 69 of the Industrial Reconstruction Bank of India Act, 1984 to provide for making of the regulations by the Board of Directors of the Industrial Reconstruction Bank of India by notification in the Official Gazette.

## FINANCIAL MEMORANDUM

At present, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 provide that the paid-up capital of every corresponding new bank as are specified in column 2 of the First Schedule to the aforesaid Acts may be increased by the Central Government, from time to time, provided that the paid-up capital of any such bank shall in no case be in excess of one hundred crores rupees. The Government has been contributing to the paid-up capital of the said banks in the last few years with a view to improving their profitability and debt: equity ratio. As a result, in the case of a few of the said banks, the paid-up capital has reached the present statutory limit of one hundred crores rupees. Further contribution in respect of these banks would be possible only if the present limit is revised upwards.

2. Clauses 30, 31(a) (i), 35 and 36 (a) (i) of the Bill increase the present statutory limit from Rs. 100 crores to Rs. 500 crores. This would enable the Central Government to increase the paid-up capital of the said banks to improve their profitability and debt: equity ratio.

3. A sum of Rs. 200 crores has been provided for this purpose in the Budget Estimates of the current year. The expenditure will be met from out of the Consolidated Fund of India and will be of a non-recurring nature. The contribution is proposed to be got invested by the said banks in special securities and would, therefore, come back into the public account of India.

4. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to amend section 58 of the Reserve Bank of India Act, 1934. Clause (p) of sub-section (2) of the said section 58 empowers the Central Board of the Reserve Bank of India to make with the previous sanction of the Central Government, regulations for the matters relating to the regulation of clearing houses for the scheduled banks. The proposed amendment amplifies this power to make regulations for all the banks including post office savings banks. This apart, the Central Government is being empowered, by making suitable amendments in the concerned legislations, to change the accounting year of the bank or financial institution by notification in the Official Gazette and to provide for matters connected therewith to facilitate the transition from one date to the other in this behalf. This would enable the Central Government to change the present accounting year of the banks and financial institutions, if considered necessary so to do, to coincide with the financial year (year ending 31st March) which is now envisaged as the uniform previous year for all the assesseees and for all sources of income under the income-tax law.

2. The matters in respect of which the said regulations may be made or the purposes for which the said notifications may be issued are matters and purposes relating to procedure and detail and it may not be practicable to provide them in the Bill itself.

3. The delegation of legislation power is, therefore, of a normal character.

## BILL NO. 104 OF 1988

*A Bill further to amend the State of Arunachal Pradesh Act, 1986.*

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the State of Arunachal Pradesh (Amendment) Act, 1988.

Short  
title.

69 of 1986.

2. In the State of Arunachal Pradesh Act, 1986, for section 10, the following section shall be substituted, namely:—

Substitu-  
tion  
of new  
section  
for section  
10.

“10. The total number of seats in the Legislative Assembly of the State of Arunachal Pradesh, to be filled by persons chosen by direct election from assembly constituencies shall be sixty, out of which fifty-nine seats shall be reserved for the Scheduled Tribes; and the provisions of the Representation of the People Act, 1950 shall be deemed to be amended accordingly.”.

Provision  
as to  
Legisla-  
tive  
Assembly.

43 of 1950.

### STATEMENT OF OBJECTS AND REASONS

Section 10 of the State of Arunachal Pradesh Act, 1986 provides that the total number of seats in the Legislative Assembly of the State of Arunachal Pradesh will be forty to be filled by persons chosen by direct elections from the assembly constituencies. However, in terms of section 11 of the said Act, the provisional Legislative Assembly of the State of Arunachal Pradesh constituted under that section as amended provides for thirty elected members and three nominated members. The Government of the State of Arunachal Pradesh have represented that, given the size of the State of Arunachal Pradesh and the thin distribution of the population, there is adequate justification for raising the number of seats in the Legislative Assembly from forty to sixty. Accordingly, it is now proposed to provide for sixty seats in the Legislative Assembly of the State of Arunachal Pradesh by amending section 10 of the aforesaid Act. Opportunity will be availed of to provide for reservation of fifty nine seats out of the sixty seats for the Scheduled Tribes in the Legislative Assembly of the State of Arunachal Pradesh in accordance with the provisions of the Constitution (Fifty-seventh Amendment) Act, 1987.

2. The Bill seeks to achieve the above objects.

NEW DELHI;

SONTOSH MOHAN DEV.

*The 1st September, 1988.*

## BILL No. 107 OF 1988

*A Bill further to amend the Sixth Schedule to the Constitution of India in its application to the States of Tripura and Mizoram.*

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Sixth Schedule to the Constitution (Amendment) Act, 1988.

Short  
title.

2. The Sixth Schedule to the Constitution shall, in its application to the States of Tripura and Mizoram, have effect subject to the following modifications, namely:—

Applica-  
tion of  
Sixth  
Schedule  
to the  
States  
of Tripura  
and  
Mizoram.

(1) In paragraph 9, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:—

“(3) The Governor may, by order, direct that the share of royalties to be made over to a District Council under this paragraph shall be made over to that Council within a period of one year from the date of any agreement under sub-paragraph (1) or, as the case may be, of any determination under sub-paragraph (2).”.

(2) In paragraph 10,—

(a) in the heading the words “by non-tribals” shall be omitted;

(b) in sub-paragraph (1), the words “other than Scheduled Tribes” shall be omitted;

(c) in sub-paragraph (2), for clause (d), the following clause shall be substituted, namely:—

“(d) prescribe that no person resident in the district shall carry on any trade, whether wholesale or retail, except under a licence issued in that behalf by the District Council.”.

(3) For paragraphs 12AA and 12B, the following paragraphs shall be substituted, namely:—

**“12AA. Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous district and autonomous regions in the State of Tripura.—Notwithstanding anything in this Constitution,—**

(a) no Act of the Legislature of the State of Tripura in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Tripura prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to the autonomous district or an autonomous region in that State unless, in either case, the District Council for that district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall, in its application to that district or such region or any part thereof, have effect subject to such exceptions or modifications as it thinks fit;

(b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Tripura to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to the autonomous district or an autonomous region in that State, or shall apply to that district or such region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;

(c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Tripura, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.

**12B. Application of Acts of Parliament and of the Legislature of the State of Mizoram to autonomous districts and autonomous regions in the State of Mizoram.**—Notwithstanding anything in this Constitution,—

(a) no Act of the Legislature of the State of Mizoram in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Mizoram prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region in that State unless, in either case, the District Council for such district or having jurisdiction over such region, by public notification, so directs, and the District Council, in giving such direction with respect to any Act, may direct that the Act shall, in its application to such district or region or any part thereof, have effect subject to such exceptions or modifications as it thinks fit;

(b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Mizoram to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to an autonomous district or an autonomous region in that State, or shall apply to such district or region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;

(c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Mizoram, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.”.

(4) In paragraph 15, in sub-paragraph (2).—

(a) in the opening paragraph, for the words “by the Legislature of the State”, the words “by him” shall be substituted;

(b) the proviso shall be omitted.

(5) In paragraph 16,—

(a) in sub-paragraph (1), the words “subject to the previous approval of the Legislature of the State” occurring in clause (b), and the second proviso shall be omitted;

(b) for sub-paragraph (3), the following sub-paragraph shall be substituted, namely:—

“(3) Every order made under sub-paragraph (1) or sub-paragraph (2) of this paragraph, along with the reasons therefor shall be laid before the Legislature of the State.”.

(6) In paragraph 20, in the table, in Part III, for serial numbers 2 and 3 and the entries relating thereto, the following shall be substituted, namely:—

“2. The Mara District.

3. The Lai District.”.

(7) After paragraph 20B, the following paragraph shall be inserted, namely:—

“20BB. **Exercise of discretionary powers by the Governor in the discharge of his functions.**—The Governor, in the discharge of his functions under sub-paragraphs (2) and (3) of paragraph 1, sub-paragraphs (1) and (7) of paragraph 2, sub-paragraph (4) of paragraph 4, paragraph 5, sub-paragraph (1) of paragraph 6, sub-paragraph (3) of paragraph 9, sub-paragraph (1) of paragraph 14, sub-paragraph (1) of paragraph 15 and sub-paragraphs (1) and (2) of paragraph 16 of this Schedule, shall, after consulting the Council of Ministers, and if he thinks it necessary, the District Council or the Regional Council concerned, take such action as he considers necessary in his discretion.”.

## STATEMENT OF OBJECTS AND REASONS

The provisions of the Sixth Schedule to the Constitution have evolved a separate scheme for the administration of the tribal areas in Assam, Meghalaya, Mizoram and Tripura through the institution of District Councils or Regional Councils. These Councils are vested with legislative authority on specified subjects, allotted sources of taxation and given powers to set up and administer their system of justice and maintain administrative and welfare services in respect of land, revenue, forests, education, public health, etc. .

2. Over a period of time, the minority tribals of Mizoram covered under the Sixth Schedule have come to feel that their autonomy under the Sixth Schedule will be more meaningful and they can achieve speedier progress if there is less overall control of the State Government over them in matters like approval of the rules made by the District Councils, nomination of their members, appointment of Commission to inquire into their administration, their dissolution, etc. They have, therefore, represented that the Governor should exercise powers in his discretion in these matters. In the Memorandum of Settlement on Mizoram, there is a provision that the rights and privileges of the minorities in Mizoram as envisaged in the Constitution shall continue to be preserved and protected. Similarly, in the Memorandum of Settlement on Tripura, there is a commitment to the protection of tribal interests.

3. In pursuance of the Memoranda and to meet the aspirations of the minority tribals in Mizoram and Tripura it has been provided that the Governor shall act in his discretion in the discharge of certain of his functions. Opportunity has been availed of to bring the language of the provisions relating to the application of the Acts of Parliament and of the State Legislatures in line with the language used in the corresponding provisions in relation to the State of Assam. The Bill also provides for a time limit in making over the share of royalties to the District Councils.

4. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

SONTOSH MOHAN DEV.

The 2nd September, 1988.

SUBHASH C. KASHYAP,  
*Secretary-General.*

